IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

WP(C).No. 2552 of 2007(D)

PETITIONER:

THE WESTERN INDIA COTTONS LTD.,
POST PAPPINISSERY, KANNUR DIST.,
REP. BY ITS CHAIRMAN.

BY ADV. SRI.U.K.RAMAKRISHNAN,
SMT.P.VIJAYAMMA.

RESPONDENTS:
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1. **THE KERALA STATE ELECTRICITY BOARD,**
   REP. BY ITS SECRETARY, VYDHYUTHI BHAVANAM, PATTOM,
   THIRUVANANTHAPURAM-4.

2. **THE CHIEF ENGINEER (COMMERCIAL & TARIFF)**
   VYDHYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM.

3. **THE SPECIAL OFFICER (REVENUE),**
   VYDHYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM.

BY ADV. SRI. JOSE J. MATHEICKEL, SC, KSEB.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.2552/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE DEMAND DTD.15/10/2004 AND THE CALCULATION STATEMENT ISSUED BY THE R.3.

EXT.P.2: COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE DEPUTY CHIEF ENGINEER, KERALA STATE ELECTRICITY BOARD.

EXT.P.3: COPY OF THE ADDITIONAL COUNTER AFFIDAVIT FILED BY THE R.1. IN E.P. NO. 216/2004.

EXT.P.4: COPY OF THE ORDER OF THE R.2. DTD. 13/11/2006.

EXT.P.5: COPY OF THE DEMAND DTD. 02/09/2002 ISSUED BY THE R.3. TO THE PETITIONER.

EXT.P.6: COPY OF THE LETTER DTD. 28/09/2002 SENT BY THE PETITIONER TO THE R.3.

EXT.P.7: COPY OF THE DEMAND DTD. 18/03/2002 SENT BY THE R.3. TO THE PETITIONER.

EXT.P.8: COPY OF THE LETTER DTD. 29/04/2002 SENT BY THE PETITIONER.

EXT.P.9: COPY OF THE LETTER DTD. 19/04/2002 ISSUED BY THE R.3.

EXT.P.10: COPY OF THE DEMAND DTD. 12/01/2007 RECEIVED BY THE PETITIONER FROM THE R.3.

EXT.P.11: COPY OF THE LETTER DTD. 14/12/2005 BY THE R.3.

EXT.P.12: COPY OF THE COVERING LETTER DTD. 17/04/2002 SUBMITTED BEFORE THE R.3.

EXT.P.13: COPY OF THE MODIFIED BANK GUARANTEE DTD. 17/04/2002 ISSUED BY THE CANARA BANK.

EXT.P.14: COPY OF THE LETTER DTD.16/04/2003 SENT BY THE PETITIONER TO THE R.3.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR, J.

W.P.(C).No.2552 of 2007-D

Dated this the 22nd day of March, 2007

JUDGMENT

The petitioner was a consumer of electricity under the respondents. It was running a textile mill at Pappinissery. It was an HT consumer. The unit stopped functioning in November, 2003. The power supply was disconnected on 10-12-2003 and finally dismantled on 21-10-2004. While so, it was served with Ext.P1 demand which will come to Rs.68 lakhs. Ext.P1 bill was challenged by filing Ext.P2 appeal. The said appeal was heard and disposed of by Ext.P4. Some relief was granted in Ext.P4 order. Based on Ext.P4, fresh demand Ext.P10 has been raised. This writ petition is filed challenging Exts.P1, P4 and P10. The demand raised in Ext.P1 is objected mainly on three grounds. The first ground relates to Rs.4,91,316/- which relates to the electricity bill for February and March, 1998. The said grievance was redressed by Ext.P4 appellate order. The second grievance relates to the claim of Rs.9,21,419/- the additional bill issued in June, 2002. The petitioner has in fact paid the bill amount. But, the said amount has been adjusted towards security deposit. But, according to the petitioner, there was no demand for payment of security deposit. It was never informed adjusted or going to be adjusted towards security deposit. Though the respondents have disputed the case of the petitioner regarding security deposit adjustment, finally after the hearing of the case, the learned

Standing Counsel submitted that in fact no demand was served on the petitioner to adjust security deposit. Therefore, adjustment made was wrong. If that be so, the second grievance regarding Ext.P1 which remained un-redressed even after Ext.P4 stands redress now. The competent authority of the K.S.E.B. shall pass consequential orders redressing this grievance of the petitioner. The third grievance regarding Ext.P1 is demand of Rs.15,373/- as additional amount payable for the months of October, 2002 to November 2002, January, February, March and July 2003. The petitioner submits, this grievance though specifically raised in the appeal, it was not properly considered in Ext.P4. The respondents on this point submits, the said amount shows remedies for the afore-mentioned six months. If the petitioner genuinely feels that there is no claim by the K.S.E.B., it may represent with supporting materials seeking rectification of that defect. The main grievance of the petitioner as per reply affidavit is that the full outstanding amount of security deposit has not been adjusted. It is also the case of the petitioner that about Rs.5 lakhs paid by it has gone unaccounted by the K.S.E.B. Since that is not a point raised in the writ petition, it cannot be adjudicated in the judgment. The petitioner may represent the above grievance before the second respondent. In that event the second respondent will after affording an opportunity of being heard to the petitioner pass final order, ,within two months from the date of receipt of this order. The claim of the petitioner for reduction of interest from 23-3-2005, the date on which the new Supply Code came into force shall also be

considered by the second respondent.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS